

This letter discusses taxation of drugs and medical appliances found in a dental office. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

December 18, 2003

Dear Xxxxx:

This letter is in response to your letter dated July 9, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are in the process of adjusting our systems to begin collecting Illinois sales tax.

Please review this list and let me know, at your earliest convenience, which items we should be taxing, and which would be exempt. Thank you in advance for your help.

Thank You,

- acrylics -- some are used in the manufacture and repair of dentures; some are used in the manufacture of orthodontic appliances (i.e. retainers). Also, within this category are products which are classified as tissue toners....used to restore sound form to underlying gingival tissue.
- denture reline materials- used to build up a denture to improve fit; compensating for gingival ridge shrinkage.
- provisional crown and bridge materials- are used in the manufacture of temporary crowns and bridges
- anesthetics, topical
- anesthetics, injectable

- alloys (silver filling material)- comprised of metal and mercury, these fillings are used to restore teeth to their original form and function.
- cements, temporary- used to cement in temporary restorations (i.e. crowns and bridges)
- cements, permanent- used to cement in permanent restorations (i.e. crowns and bridges)
- cotton rolls (non-sterile)- used to isolate teeth and absorb moisture
- cotton rolls (sterile)- used to isolate teeth and absorb moisture
- cotton roll substitutes (i.e. Dri Angles)- used to absorb moisture
- barriers (i.e. headrest covers, chair covers, light handle covers, a/w syringe covers, tray covers, curing light sleeves, tubing covers, etc.)- single use barriers (usually plastic) that are used to achieve infection control.....preventing cross-contamination.
- bases and liners- placed underneath restorations to help protect the tooth's pulp from chemicals found in restorative materials. Some simply serve as barriers; others (i.e. calcium hydroxide formulations) help to regenerate dentin.
- bibs, disposable
- bibs, re-useable)
- bleaches (in office)- used to whiten teeth
- bleaches (take home)- used to whiten teeth
- bonding agents- used to bond restoratives to tooth structure
- burs - used in handpieces (a.k.a. drills) to cut away decay, shape and recontour teeth, or for the finishing and adjustment of restorative materials
- cold sterilization solutions- used to sterilize products that cannot withstand the heat of the autoclave (sterilizer)
- cold sterilization containers- used to soak instruments in cold sterilization solution
- composites (tooth colored resin-based filling materials)
- cotton swabs (non-sterile)
- cotton swabs (sterile)
- dental flosses
- denture cleaning tablets
- denture cases
- endodontic files, hedstroms, and reamers- used to remove pulp tissue during root canal procedures
- endodontic pins and posts (remain in the body)- used to reinforce roots or as a basis for post and core restorations
- eye protection (i.e. safety glasses, side shields for prescription glasses, disposable visors, re-useable visors)
- finishing products (i.e. discs, strips, points, wheels, pastes, etc.)- used to smooth, polish, and refine restorative materials.
- fluorides (in-office)
- fluorides (take-home)
- fluoride trays (disposable, single use)
- gauze (sterile)
- gauze (non-sterile)
- gloves, exam
- gloves, heavy duty, cleaning
- glove liners and overgloves
- high volume suction tips (single use, disposable)

- high volume suction tips (sterilizeable, re-useable)
- paper towels
- sterile drapes (single use, disposable)
- impression accessories (i.e. mix tips, mix pads (disposable), mix slabs (re-useable), spatulas, mixing bowls, mixing bowl liners, etc.)
- implant components and accessories (products used in the manufacture of dental implants, which are artificial teeth connected to an abutment permanently attached to the alveolar bone)
- impression materials- used to produce a negative replica of the mouth, which is then used as a basis for the fabrication of restorations (i.e. crowns, bridges, implants, etc.)
- impression trays (disposable)
- impression trays (re-useable)
- instruments, re-useable
- instruments, disposable
- lab products (i.e. chemicals, waxes, polishes, etc. used by dental laboratories in the fabrication of various restorations, such as crowns, bridges, implants, etc.)
- medicaments- medicinal products used in various procedures
- OSHA labels, charts, and reference materials
- OSHA signs (ie. 'EXIT', 'NOT AN EXIT', etc.)
- pharmaceuticals (prescription)
- pre-fabricated temporary crowns
- pre-fabricated bridges
- prophylaxis angles (disposable)- used in conjunction with a slow speed handpiece for cleaning and polishing teeth.
- prophylaxis angles (re-useable)- used in conjunction with a slow speed handpiece for cleaning and polishing teeth.
- Prophylaxis brushes and cups (single use)
- prophylaxis pastes (with fluoride)- abrasive pastes, usually containing fluoride, which are used in the cleaning and polishing of the teeth
- prophylaxis pastes (without fluoride)
- reference books, cd-roms
- saliva ejectors (disposable)- low volume suction...used to evacuate fluids from the mouth
- saliva ejectors (re-useable)-)- low volume suction...used to evacuate fluids from the mouth
- surface disinfectants- used to clean and disinfect surfaces in the dental operatory between patients
- surgical suction tips (disposable)- used to evacuate fluids at surgical sites
- surgical suction tips (re-useable)- used to evacuate fluids at surgical sites
- toothbrushes (manual)
- toothbrushes (electric)
- ultrasonic solutions- used in an ultrasonic cleaner to loosen debris from instruments
- vacuum forming materials (used in the manufacture of mouthguards, bleaching trays, splints, etc.)
- x-ray film
- x-ray film positioning devices x-ray processing solutions
- x-ray mounts

- x-ray envelopes
- x-ray bite wings and tabs (single use)

We are forwarding a copy of 86 Ill. Adm. Code 130.310 regarding the taxation of Food, Drugs, Medicines and Medical Appliances. Those products that qualify as medicines, drugs, or medical appliances are taxed at the reduced low rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. In addition, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate. A medicine or drug is defined at Section 130.310(c)(1) as "any pill, powder, potion, salves, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities."

Examples of items that qualify for the reduced rate are artificial limbs, dental prostheses and orthodontic braces, heart pacemakers, crutches and orthopedic braces, and wheelchairs. As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2).

You can determine the tax status of the items listed in your letter by applying these principles. For example, fluoride solutions and fluoride pastes probably make a medical claim so they would qualify for the low rate. However, a non-fluoridated paste or bleaching product used to whiten teeth for cosmetic purposes would probably not qualify for the lower rate. While a dental crown would qualify as a medical appliance because it substitutes for a malfunctioning part of the body, disposable impression materials themselves do not so substitute and would thus be fully taxable. Gloves, scrubs, lab coats and other work clothing are all consumable supplies subject to the full rate of tax.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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